REMARKS

Claims 1-25 are pending in the present application. Claim 2 was amended in this response. No new matter was added

The Examiner objected to the claim for priority because the application did not contain a specific reference to the prior application in the first sentence of the specification. With the above amendment to the specification, the specification now refers to the priority document.

The drawings were objected to because of the reference "AD" recited in the specification (page 6, line 29) was not shown in the drawings. The specification was amended to change "AD" to "AS", which is the correct designation. The Applicant thanks the Examiner for pointing out this informality. Withdrawal of the objection is respectfully requested.

Claim 2 was objected to for informalities. Applicant has amended claim 2 to recite "transmitting part." Waithdrawal of the objection is respectfully requested.

Claim 4 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding the term "the offered . . . softaware", antecedent basis is provided in the claim where "at least one of each offered software item" is recited in the claim. Accordingly the rejection is improper and should be withdrawn.

Claims 1, 2, 14, 15, 21 and 22 were rejected under 35 U.S.C. §102(b) as being anticipated by *Shah* (US Patent 6,029,065).

Claims 3, 4, and 17 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Shah* (US Patent 6,029,065).

Claims 5, 6, 16 and 24 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Shah* (US Patent 6,029,065) in view of *Chen et al.* (US Patent No 5,797,016).

Claims 7, 12, 13, and 23 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Shah* (US Patent 6,029,065) in view of *Valentine et al.* (US Patent No 6,018,654).

Claims 8 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Shah* (US Patent 6,029,065) in view of *Pepe et al.* (US Patent No 5,742,668).

Claims 9-11, 19, 20 and 25 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Shah* (US Patent 6,029,065) in view of *Shear* (US Patent No 4,977,594). Applicant traverses these rejections. Favorable reconsideration is respectfully requested.

Under the teaching of *Shah*, a base station can query features from a mobile radio terminal device to determine what features are supported, and updating of those features (col. 3, lines 25-53). The base stations loads bits of information onto the mobile radio terminal device whereby said bits of information inform the mobile radio terminal device about the available network functionalities and as to how they can be accessed in the local network (compare column 3, lines 35 to 40). Also, the base station uses messaging to transmit feature codes used in the visited network to the mobile radio terminal device (col. 7, lines 30-35). *Shah* teaches that the user of a mobile radio terminal device can select a desired functionality from the user's home network by selecting a menu point or by entering a familiar key sequence. For this purpose, the internal processor of the mobile radio terminal device transforms the entered values into the feature codes used for the selected functionality in the network (col. 7, line 56 – col. 8, line 47).

In contrast, claim 1 of the present application (as well as independent claims 15 and 21), discloses a telecommunication network having a number of terminal devices from users with respectively one predetermined hardware and software configuration and a central server of an access or service provider. The central server is a central network element which covers a number of base stations and is not attributable to a specific base station. *Shah* does not disclose such a central server. In this regard, the Office Action refers to column 3, lines 25 to 40 of the reference. However, there is no teaching or suggestion regarding a central server as described in the present claims - it is explicitly explained in *Shah* that the base station downloads bits of information onto the terminal device <u>after</u> the base station has been successfully registered.

Furthermore, according to claims 1, 15 and 21 of the present application, the server has inquiry means for inquiring the hardware and software configurations of the terminal devices and has software transmitting means for loading software and/or data, which is adapted to the determined hardware and software configuration, onto the terminal devices. In contrast, *Shah* teaches that the central server (and not the individual base station) has the inquiry means. Furthermore, the hardware and software configurations of the terminal devices under the present claims are not inquired according to the functionalities supported by the terminal device as taught in *Shah*.

Moreover, the present claims recite that the terminal devices have response-transmitting means for transmitting a configuration code characterizing the hardware and software

configuration to the server in response to an inquiry of the inquiry means and have software receiving means for receiving and for internally storing transmitted software and/or data. Accordingly, the content of the transmitted information (a configuration code characterizing the hardware and software configuration) and the receiver of the information (the central server) differ from the teaching of *Shah* wherein the mobile radio terminal device transmits a list of the supported functionalities to the base station (col. 4, lines 1-9).

Furthermore, *Shah* teaches in column 8, lines 31 to 41 the sending of a message to the mobile radio terminal device whereby the message informs the user about an additional fee that will be charged for using a specific functionality. The corresponding functionality is only provided when the user agrees to this additional charge. In contrast, the distributed control means in the present claims are configured for the interactive determination of a charging mode for downloaded software and/or data. *Shah* does not disclose a corresponding interactive determination of the charging mode.

Regarding *Chen*, the reference does not solve the deficiencies of Shah, discussed above. *Chen* discloses a method and a device for updating or replacing agents on a remote workstation which have been used in a backup software program. The workstation is arranged as a client in a client/server network. According to column 1, lines 58 to 61, the agent is a small piece of software which is stored and executed on each workstation in order to fulfill tasks provided by the server. In contrast, the present claims are directed to a telecommunication network having a number of terminal devices from users with a predetermined hardware and software configuration and a central server of an access or service provider. The *Chen* reference does not mention a corresponding telecommunication network. Furthermore, the features of patent claim 1 of the present application - that the server has inquiry means for inquiring the hardware and software configurations of the terminal devices, and has software transmitting means for loading software and/or data, which is adapted to the determined hardware and software configuration onto the terminal devices and that the terminal devices have response transmitting means for transmitting a configuration code, which characterizes the implemented hardware and software configuration, to the server as a response to an inquiry of the inquiry means and software receiving means for receiving and for internally storing transmitted software and/or data - are not

disclosed or suggested by *Chen*. Also, given the disclosure of *Chen*, there is no suggestion or motivation to combine the reference with *Shah* in the manner suggested in the Office Action.

Likewise, *Valentine* also does not solve the deficiencies of *Shah* discussed above. *Valentine* discloses a method and a device for downloading tones or sounds onto a mobile telephone unit. The downloaded tone data, within the mobile telephone unit, are unambiguously concatenated or interlaced with a selected telephone number so that a call to the mobile telephone unit, whereby the call integrates this telephone number, and initiates a reproduction of the tone data. Furthermore, a communication between the terminal device and the server is initiated where the client application within the mobile telephone unit, initiated by entries of the user, requests access to the tone database (col. 4, lines 15-27).

According to the independent claims 1, 15 and 21 of the present application, the inquiry of the current hardware and software configuration of a terminal device occurs in an inquiry step when the user logs in the telecommunication network or occurs at predetermined times or, respectively, in predetermined intervals given the claimed telecommunication network or terminal device. Accordingly, the current hardware and software configuration of the respective terminal device recited in the present claims is transmitted to the central server in a transmitting step. *Valentine* does not disclose a corresponding inquiry step. *Valentine* transmits tone data onto the mobile terminal device wherein software suitable for the terminal device (i.e., the software is not yet present on the terminal device) and/or data are concerned. *Valentine* does not describe a transmission of charge mode signals either as is the case in the present claims.

Pepe discloses a communication system and a method providing the network subscriber with the possibility of remotely controlling the reception and delivery of electronic text messages (col. 13, lines 29-39). The network serves as the interface between fixed networks and radio networks. The options of the subscriber regarding the reception and delivery of messages are administered by a databank and can be updated by the subscriber. Similarly, *Shear* discloses a method and a device for the user-dependent charging of a databank. Nothing in these references remotely teaches the features recited in the present claims.

In light of the above amendments and arguments, Applicant submits that the present claims are allowable over the prior art. Withdrawal of the rejections under 35 U.S.C. §102 and §103 are respectfully requested. Applicant also requests that a timely Notice of Allowance be
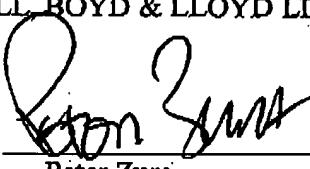
issued in this case. Also, the Applicants have included a petition for a 1-month extension of time, along with a check in the amount of $120.00. Should there be any additional charges regarding this application, the Examiner is hereby authorized to charge Deposit Account 02-1818 for any insufficiency of payment.

Respectfully submitted,

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